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17 *Attorneys for Plaintiff, My Daily Choice, Inc.*

18 **UNITED STATES DISTRICT COURT**

19 **DISTRICT OF NEVADA**

20 MY DAILY CHOICE, INC., a Nevada
21 corporation;

22 Plaintiff,

23 v.

24 WILLIAM T. BUTLER, an individual;
25 KRISTEN BUTLER, an individual; and
26 ARIEYL, LLC, a Florida limited liability
27 company,

28 Defendants.

Case No.: 2:20-CV-02178-JAD-NJK

**Stipulation and Order
re: Filing First Amended
Complaint**

1 Plaintiff My Daily Choice, Inc. (“Plaintiff” and/ or “MDC”) and Defendants William T.
2 Butler, Kristen Butler (“Butlers”) and Arieyl LLC (“Arieyl”) (collectively, “Defendants”), through
3 their respective undersigned counsel, hereby stipulate and request that in the event the Court denies
4 Defendants’ pending Motion to Dismiss [ECF 23], the Court grant leave for MDC to file the
5 proposed First Amended Complaint attached hereto as Exhibit 1 (“FAC”).

6 The Parties further stipulate and request that in the event the Court does not rule on the
7 Motion to Dismiss prior to the current April 6, 2021 due date for amended pleadings set forth in
8 the Scheduling Order [ECF 15], the Court extend the cutoff date for amended pleadings by three
9 (3) court days from the date of its ruling on the Motion to Dismiss to allow MDC to file the FAC.

10 In support of this Stipulation, the Parties state as follows:

11 1. Counsel for the Parties met and conferred between March 12 and March 24, 2021
12 and stipulated to the filing of the proposed FAC and extension of the cutoff date for amended
13 pleadings (if necessary), as set forth above.

14 2. MDC seeks to amend its Complaint to add a claim for contractual breach of the
15 implied covenant of good faith and fair dealing against the Butlers and to make the edits reflected
16 in the redline attached hereto as Exhibit 1. In return for Defendants’ stipulation to the filing of the
17 FAC, MDC stipulated that counterclaims may be asserted against MDC in this action to allow
18 resolution of disputes in one forum.

19 3. Good cause exists to grant leave to file the FAC, and to extend the cutoff date for
20 amended pleadings (if necessary), because Fed. R. Civ. P. 15(a)(2) authorizes a party to amend a
21 pleading with the opposing party’s written consent or the Court’s leave, Defendants have provided
22 written consent to the filing, Defendants have not yet filed an answer and the pleadings are not yet
23 set, the cutoff date for amended pleadings has not passed, and leave to amend pleadings is liberally
24 granted at this stage of the proceedings.

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Accordingly, the Parties stipulate that MDC may file the FAC in the event the Court denies the Motion to Dismiss, and further stipulate that the cutoff date for filing amended pleadings be extended three (3) court days from date of the Court's ruling on the Motion to Dismiss in the event the Court does not rule on the Motion to Dismiss prior to the current April 6, 2021 cutoff date. Finally, in the event that the Court denies the Motion to Dismiss, the Parties stipulate that Defendants may file counterclaims in this action to allow the resolution of disputes in one forum.

IT IS SO STIPULATED.

Respectfully submitted,

Dated this 26th day of March 2021.

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Dated this 26th day of March 2021.

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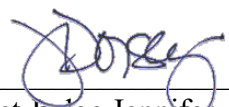
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*Attorneys for Defendants William T. Butler,
Kristen Butler and Arieyl, LLC*

ORDER

Based on the parties' stipulation [ECF No. 30], IT IS SO ORDERED. And because the Court has now denied the motion to dismiss [ECF No. 23], IT IS FURTHER ORDERED that the Plaintiff has until September 17, 2021, to file its First Amended Complaint in the format attached to the stipulation.



U.S. District Judge Jennifer A. Dorsey

Dated: September 10, 2021